

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

LASHONTA A. TRICE,

Petitioner,

v.

CASE NO. 04-CV-74575-DT  
HONORABLE VICTORIA A. ROBERTS

KURT JONES,

Respondent.

---

**ORDER DENYING PETITIONER'S  
MOTION FOR AN EVIDENTIARY HEARING**

Petitioner Lashonta A. Trice has filed a petition for the writ of habeas corpus under 28 U.S.C. § 2254. The pleading attacks Petitioner's state convictions for assault with intent to murder, armed robbery, first-degree home invasion, and felony firearm. Also pending before the Court is Petitioner's motion for an evidentiary hearing on his claim of ineffective assistance of counsel.

Petitioner has no absolute right to an evidentiary hearing. *See Blackledge v. Allison*, 431 U.S. 63, 80 (1977) (concluding that not "every set of allegations not on its face without merit entitles a habeas corpus petitioner to an evidentiary hearing"). "Generally, a habeas petitioner is entitled to an evidentiary hearing in federal court if the petition 'alleges sufficient grounds for release, relevant facts are in dispute, and the state courts did not hold a full and fair evidentiary hearing.'" *Stanford v. Parker*, 266 F.3d 442, 459 (6th Cir. 2001) (quoting *Wilson v. Kemna*, 12 F.3d 145, 146 (8th Cir. 1994)).

Petitioner did not receive an evidentiary hearing in state court. However, because Respondent has not filed a responsive pleading or the state court record,<sup>1</sup> the Court is unable to determine whether relevant facts are in dispute or whether the habeas petition alleges sufficient grounds for relief. Accordingly, the Court **DENIES** Petitioner's motion for an evidentiary hearing [Doc. #2] without prejudice.

S/Victoria A. Roberts

Victoria A. Roberts

United States District Judge

Dated: May 4, 2005

The undersigned certifies that a copy of this document was served on the attorneys of record and pro se petitioner by electronic means or U.S. Mail on May 4, 2005.

s/Carol A. Pinegar

Deputy Clerk

---

<sup>1</sup> The responsive pleading is due May 31, 2005.